

Is freedom the most important part of development?

WHAT is meant by the development of a country? Development is enhancing the wellbeing of people. So is it GDP growth? Is it growth in per capita income? Yes, it is all of those things but perhaps the most important component of development is enhancing freedom.

The most severe punishment

From ancient times the biggest punishment handed to a person was imprisonment (if his head was not cut off). Imprisonment is the most severe punishment because it removes a person's freedom. Even though jail provides an inmate with a roof over his head/her, food and company, people do not want to go to jail because freedom is more important than material things like food, clothing and shelter. These material things do not compensate for the loss of freedom.

If a Government provides its people with food, clothing, shelter, etc. but does not give them freedom, it is equivalent to putting society in jail. And just like an individual, society does not like being in jail.

Great leaders

Great leaders have recognised the importance of freedom. It is good to read again what was said when we got freedom from the yoke of being a colony. On Independence Day, the late S.W.R.D. Bandaranaike spoke on behalf of the Government.

He said: "We must not, we cannot, allow our newly-regained freedom to run the risk of remaining merely a theoretical concept, a thing dead and without real meaning for the vast mass of the people; we must see that it quickens into a life of greater happiness and prosperity for us all. Political freedom comes alive only when it is utilised to achieve other freedoms - freedom from poverty, freedom from disease, freedom from ignorance, freedom from fear. Nor is that all. We have to fan the flickering flame of democracy so that each individual is assured of these freedoms for which democracy has always stood and which safeguard man's self-respect and

secure decent, honest and fair dealing between man and man."

Bandaranaike was so committed to the concept of freedom that when he formed his political party he called it the Sri Lanka Freedom Party.

Freedom and development

There are many links between freedom and development. Every society must endeavour to ensure that its people have freedom from poverty in all its manifestations (food, shelter, water, disease, ignorance, etc).

Therefore development becomes the process of expanding the human freedom from poverty. Development must encompass all the components like freedom from hunger, freedom from disease, etc.

GDP and poverty

A growth in GDP does not mean that there is necessarily an expansion in freedom from poverty. Growth in per capita income does not always mean an increase in the freedom from poverty. It could be the rich getting richer and the poor remaining poor. A growth in GDP must be married to an inclusive development which ensures that all segments of society experience the developments that reduce poverty. We are reminded regularly that per capita GDP is increasing but we are never told of the pattern of distribution.

So it's expected to be \$ 3,719. But how many people are above this level, how many are below this and how many people have a per capita below \$ 2000 etc? Until such data is provided it is not known whether the growth in GDP and per capita income is increasing freedom from poverty.

Growth in GDP

Growth in GDP is essential to give a country the capacity to increase freedom from want, be it food, clothing, shelter, or disease. To achieve this, an economy must have the freedom to do business that facilitates growth. It is universally recognised that freedom to do business will impact GDP growth.



S.W.R.D. Bandaranaike was a leader who recognised the importance of freedom

This is deemed to be such a fundamental concept that the World Bank publishes annually an Ease of Doing Business Index. In the latest index Sri Lanka is languishing at around 99 out of 189 countries.

Strangling Freedom to do business

The important question is 'What is Sri Lanka doing to expand the freedom to do business?' We continue to be riddled with a plethora of controls. These arise from numerous Acts that have to be navigated to do any new business.

In addition, there are gazette notifications that supplement these Acts. A further addition to create still more complexity are a host of administrative circulars.

Those who have to grant approvals do not have a mindset of wanting to help to do new business. The anecdotal evidence is that this is a ploy to compel those seeking approval to bribe to get what can be legitimately approved. Is bribery the only lubricant that turns the wheels of bureaucracy?

There is no evidence of a strong political will to radically eliminate these practices that severely curb the freedom to do business.

Freedom for the inner spirit

We all have an inner spirit. It is this inner spirit that makes us feel happy to see a gorgeous sunset. It is this inner spirit which makes us feel good when someone says, 'I love you'. None of this touches us physically like food or drink.

Freedom from want of physical things like food and water is important

and expanding it is an important component of development. But freedom from what causes unhappiness to our inner spirit is a far stronger emotion. Therefore development must encompass all those freedoms that matter to the inner spirit. Development is creating a society where its people can live without fear. That means freedom to say what you want, freedom to practice one's religion, the freedom to support any political organisation, etc.

Corruption, bribery, thuggery, nepotism, injustice, police brutality, harassment of political opponents, etc., all of which add up to a corrupt society, will impact the inner spirit and will hover over it like a dark cloud of oppression.

As depression is the twin sibling of oppression, it will become a society where people are depressed because where there is no freedom from oppression. Therefore creating the freedoms that eliminate what oppresses the inner spirit has to be one of the most important components of what constitutes development.

The inner spirit purrs and growls

The inner spirit is not a pussy that purrs when it is pleased and curls up silently when it is not. It is the unhappy inner spirit that creates fury and rage and drives people to kill and destroy.

When there is no development of these freedoms and there is a steady erosion of what there was, it creates an explosive scenario. Even those who are not personally affected feel oppressed when the freedoms they value are suppressed. This explains the phenomenon of mass uprisings around the world in support of freedom. The fuse that leads to an explosion catches fire by itself. You do not need a man with a torch to set fire to it.

The inner spirit creates revolutions

It is the inner spirit's discontent with erosion of freedoms that created the revolt against the communist system in Europe and it is this same inner spirit that created the Arab Spring. We see many rebellions in Africa against leaders who have been warming presidential seats for a long time. All on the same theme of wanting freedom from what oppresses them.

The Palestinians explode from time to time for the same reason. None of these revolts is a demand for more bread. They are all a demand for freedom.

Development has to mean expanding the freedoms that impact material wants but even more importantly development has to be creating and expanding the freedoms that will remove the oppression of the inner spirit.

'Company Law' stands tall as magnum opus on subject

DR. HARSHA CABRAL
(PH.D CANBERRA)

IT is with great pleasure that I review the book on Company Law authored by President's Counsel K. Kanag-Isvaran and Attorney-at-Law Dilshani Wijayawardana.

The book, which contains 25 parts and 80 chapters, covers the entire rubric of company law in Sri Lanka in meticulous detail. Writing a textbook about the major principles in any field of law is a daunting task. This is certainly true of Sri Lankan Corporate Law, a field which has undergone dramatic growth and change from 1860. The truth is reflected in the size of this book.

My guru Kanag-Isvaran, with a proven track record for the last 48 years of being a giant in corporate litigation in Sri Lanka with his vast knowledge and experience gathered over the years coupled with precision research on the subject, has, with the contribution of his able and competent Junior, Dilshani Wijayawardana, produced this locus classicus.

In many a jurisdiction, a large number of books are written on the subject once a new law has been introduced. Unfortunately, in Sri Lanka only a few are available pursuant to the introduction of the Companies Act No. 7 of 2007.

This book stands tall among the few books that are published on the subject matter. Company Law in a nutshell is the lifecycle of a corporate body from its birth to death. The authors of the book have captured this in the preface when they say, "... The book deals with the living law for living companies, in sickness and in health till winding up does them apart."

The book takes a fresh approach to the field of Company Law in Sri Lanka and in identifying the key theoretical and contextual concerns, which arise in this area. It seeks to provide a comprehensive analysis of the large body of law, which has emerged in Sri Lanka, with the birth of the Companies Act No. 7 of 2007.

The order of treatment flows from the birth, life and death of a company vis-à-vis the statute, with ample research on the same, from not only Sri Lanka but also from jurisdictions such as New Zealand, Australia, Canada, England and even India.



Company Law book cover

The several chapters flow in perfect harmony. Chapter 7 on Corporate Governance is a definite bonus to the reader as it deals with the birth and growth of Corporate Governance in Sri Lanka in the backdrop of developed jurisdictions, in addition to the provisions of the Companies Act visited in the other chapters.

The book adopts plain English in a readily understandable writing style with clarity. The several chapters that deal with the concepts of Corporate Law are explained simply, integrating case law and relevant provisions of the Act.

The extracted cases are included for their importance, as illustrations of particular principles or because they contain clear judicial expressions of the law. The additional benefit Kanag-Isvaran has had as an architect of the Companies Act No. 7 of 2007 is amply demonstrated with the frequent references made throughout the book to the new provisions in the Act and other new developments in the law.

This will enable the reader to appreciate the new provisions of the law namely Director's duties, Major transactions, Derivative actions, Minority buy out rights, solvency test, company disputes boards and sui generis procedures, etc. Indeed the 80 chapters of the book are so arranged to reflect Company Law in Sri Lanka in its entirety.

It is indeed a masterpiece on the Company Law of Sri Lanka which every lawyer, accountant, company director, shareholder or member of a company, creditor, lending institution, Company Secretary, law student, accountancy student, management student and the corporate community at large should invest in.

I congratulate Mr. K. Kanag-Isvaran and Ms. Dilshani Wijayawardana in producing this valuable piece of literature on the Company Law of Sri Lanka.

Dubai: Lessons from the world's fastest city



Emirates Airline at the Dubai Airport

Halliburton, DHL courier service, J. Ray McDermott, Bechtel, KBR, GE, Flour Corp of US, Saipem of Italy, Atkins of UK, Technip of France, Hyundai and Daiwoo of South Korea are some of the global companies operating from Dubai and serving the markets in GCC countries, Africa and other oil rich Central Asian economies such as Azerbaijan, Kazakhstan etc. Dubai enjoys special relationship with

Great Britain and there are thousands of Britons employed in UAE.

Iconic Dubai

Dubai has been a commercial and shipping hub for many decades and has seen rapid economic progress in the Gulf region. Dubai has become the catalyst for change and its cosmopolitan landscape has been copied by other Gulf States (E.g. Palm Island). The rapidity with which Dubai was developed was attributed to the political acumen and the spirit of entrepreneurship displayed by the ruler of Dubai.

Sheikh Mohamed Al Maktoum is a visionary who never stops at making Dubai identified with 'superlatives' such as the 'world's biggest' the 'world's tallest', the 'longest', etc.

Dubai has become the world's number one destination, surpassing Paris, New York and London. The rapid urbanisation, business-friendly culture, rule of law (a

woman can travel alone in public transport and in a taxi at midnight without any harassment), liberal entertainment industry, liberal attitude respecting the cultures and religions of millions of expatriates who come from over 150 countries, really made Dubai attractive as a center for business operations.

The Dubai Police has proven to be an effective police force. Criminals are apprehended within hours, demonstrating its ability, superior technology, resolve and 'no-nonsense' policy when enforcing the law. The Dubai Metro and Public Transport operate in a far superior way to their Sri Lankan counterparts. The culture of discipline can be seen in abundance. Road rules are strictly observed and revenue collection has been fully automated. The moment a vehicle exceeds the speed limit a charge is debited automatically to your annual vehicle licence renewal fee and the charges provide the time and location the transgression occurred.

Branding Dubai

The positive message of Dubai spread across the globe and investors and tourists flocked in millions and this enabled the economy to absorb income from the tourism and aviation-related industries. The revenue from tourism and the travel trade contributes to around 20% of the GDP.

The best-known landmarks are the Burj Khalifa, seven star Burj Al Arab Hotel, Dubai World Central Airport and Dubai Mall. The Burj Khalifa is the tallest tower while rivals in other countries are now trying to surpass the Burj Khalifa. The Dubai

Mall is the world's biggest shopping Mall. Dubai Drydocks is a ship repair and building company which began its operations in 1971 during the time the federation was formed and it has now become a world-class organisation.

Dubai Ports World (DP World) is the operating company of Port of Dubai and had an ambitious desire to acquire the US operations of the port management business of British-owned P&O Company. The acquisition ran into a political quagmire and US politicians claimed national security concerns and thus watered down an otherwise ambitious program of the DP World.

Even the President of Zim Shipping Line of Israel spoke in support of the DP World acquisition effort, endorsing the immaculate security and working relationship with Dubai. The UAE Government provides logistical and other facilities to the US Department of Defence and the UAE is a key ally of the US and has been active in support of US defence policy in the Gulf region.

The Dubai Shopping Festival (DSF) is a retail merchandising event with many attractive incentives, discounts and raffles intended to boost the retail industry. DSF usually commences in January and its primary mission is to attract tourists from across the world.

Dubai World Central – The Economic zone

Dubai World Central – Al Maktoum International Airport will be the world's largest passenger and cargo hub with six runways. The economic zone comprises Residential City, Logistics City, Enterprise

Park, Commercial City, Aviation City, Staff Village and a Golf City. These infrastructure facilities are built on the basis of a secure economy that can predict the revenue hence none of these structures have ever remained idle and have always been a hive of activity. Dubai's economic planning is well in line with its projections hence infrastructure investment is justified.

Emirates Airlines

Emirates Airlines, owned by the Dubai Government, commenced its operations as far back as 1985 with a relatively small fleet of aircraft and it has now become the largest airline in the Middle Eastern region and the fourth largest in the world.

It operates a fleet of 221 aircraft flying to 142 destinations across all continents. Emirates Airlines has made steady progress in expanding the fleet operations and destinations in keeping with the market demands of the economy. Emirates Airlines made use of the synergies emerged from the rapid progress of the economy of Dubai and also regional economic developments especially within GCC countries. Emirates Airlines has a proud history of deploying the most modern aircraft and an immaculate safety record. Currently Emirates Airlines operates the biggest fleet of Airbus Superjumbo A380s and Boeing 777

aircraft.

Expo 2020 Dubai

Expo 2020 is a global trade event scheduled to be held in Dubai. The Dubai Government made a valiant effort to secure the opportunity to host Expo 2020 in Dubai and the City of Dubai is currently being transformed to meet the demand expected in 2020.

The bid for Expo 2020 was made possible due to existing infrastructure, style of governance, credibility, track record, testimonials, sustainability efforts and the credentials of a Government which has proven to be ambitious in transforming the city of Dubai. It is estimated that nearly 400,000 jobs will be created either directly or indirectly as a result of infrastructure modernisation and developments. It is expected that 25 million visitors will be attracted by the event. This has now skyrocketed housing and apartment rentals and has spilled over to adjacent governorates where millions of expatriates are living and travel daily to Dubai for work. Dubai is truly a case study in urban planning and economic development.

(This writer is a freelance journalist and a government affairs consultant. He is a registered member of the American Association of Political Consultants)



Burj Khalifa

My View



Insightful Perspectives
By Lali de Mel

Guest Column



By Srinath Fernando

Many multinational companies set up regional operational hubs in Dubai in an effort to cater to other Gulf Cooperation Council (GCC) members such as Saudi Arabia, Bahrain, Qatar, Oman and Kuwait.